

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:19 CV 357 MOC WCM

PALMETTO AIR & WATER
BALANCE, INC.

Plaintiff,

v.

ARCHER WESTERN
CONTRACTORS, LLC and
TRAVELERS CASUALTY AND
SURETY COMPANY OF
AMERICA

Defendant.

ORDER

This matter is before the Court *sua sponte*.

On December 23, 2019, Plaintiff Palmetto Air & Water Balance, Inc. (“Plaintiff”) filed a Complaint against Archer Western Contractors, LLC (“Archer Western”) and Travelers Casualty and Surety Company of America (“Travelers”). Doc. 1. Plaintiff contends that subject matter jurisdiction exists pursuant to 28 U.S.C. § 1332.

In that regard, Plaintiff states that “Archer Western is a corporation organized and existing under the laws of Delaware with its principal place of business in Chicago, Illinois.” Doc. 1, ¶ 2. However, the caption indicates that

Archer Western is a limited liability company.¹ Further, a disclosure statement for Archer Western indicates that Walsh Construction Group, LLC is Archer Western's parent corporation. Doc. 5.

“For purposes of diversity jurisdiction, the citizenship of a limited liability company ... is determined by the citizenship of all of its members.” Cent. W. Va. Energy Co., Inc. v. Mountain State Carbon, LLC, 636 F.3d 101, 103 (4th Cir. 2011). When members are LLCs themselves, the citizenship issues must be traced through until one reaches only individuals and/or corporations. See Jennings v. HCR ManorCare, Inc., 901 F.Supp.2d 649, 651 (D. S.C. 2012) (“an LLC's members' citizenship must be traced through however many layers of members there may be.”).

Additionally, Plaintiff states that “Travelers is a surety company authorized to conduct business in the State of North Carolina, with its principal place of business in the State of Connecticut.” Doc. 1, ¶ 3. If Travelers is a limited liability company or other unincorporated association, Plaintiff must allege the citizenship of all Travelers' members. If instead Travelers is a corporation, Plaintiff must allege Travelers' state of incorporation in addition to Travelers' principal place of business. Cent. W.

¹ The name of a Delaware LLC “[s]hall contain the words ‘Limited Liability Company’ or the abbreviation ‘L.L.C.’ or the designation ‘LLC’.” Del. Code Ann. 6 § 18-102 (West).

Va. Energy Co., Inc., 636 F.3d at 102; 28 U.S.C. § 1332(c)(1).

“The burden of establishing subject matter jurisdiction is on...the party asserting jurisdiction.” Robb Evans & Assoc., LLC v. Holibaugh, 609 F.3d 359, 362 (4th Cir. 2010). Here, the record does not reveal the identity or citizenship of the constituent members of Archer Western, nor adequate information regarding Travelers’ citizenship.

Accordingly, Defendant is **DIRECTED** to file, on or before February 5, 2020, a notice identifying: (1) Archer Western’s constituent members and the citizenship of each; and (2) the citizenship particulars of Travelers.

Signed: January 21, 2020

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

